



Office of Nuclear Materials Safety and Safeguards Procedure Approval

Agreement State Participation in NRC Working Groups

SA-801

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Signed by Williams, Kevin
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on 09/05/22

Steve Seeger
Chairman, Organization of Agreement States

Date:

ML22245A083

NOTE

***Any changes to the procedure will be the responsibility of the NMSS Procedure Contact.
Copies of NMSS procedures are available through the NRC Web site at
<https://scp.nrc.gov>***

I. INTRODUCTION

The U.S. Nuclear Regulatory Commission (NRC) or the Organization of Agreement States (OAS) Executive Board may recommend the establishment of a joint Agreement State/NRC working group to address a wide range of issues and to develop a variety of different products. Working groups provide a means for Agreement State and NRC staff to work cooperatively in the development of a rule, policy, directive, or guidance document; or to participate in a special study. These working groups enhance the partnership between the NRC and the Agreement States, facilitate the utilization of the centers of expertise that exist in the Agreement State and NRC, and support the National Materials Program. Other Federal agency representatives may also participate as necessary, depending on the purpose and scope of the working group. All requests for Agreement State participation on working groups will be coordinated by the Office of Nuclear Material Safety and Safeguards (NMSS), Division of Materials Safety, Security, State, and Tribal Programs (MSST).

II. OBJECTIVES

- A. This procedure implements the agency's requirements for Management Directive (MD) 5.3 *Agreement State Participation in Working Groups*.
- B. This procedure describes the steps to establish and implement Agreement State/NRC working groups. This procedure does not contain the criteria for Rulemaking Working Groups. Those criteria are contained in SA-801A, *Agreement State Participation in Rulemaking Working Groups*, located in NRC's Agencywide Documents Access and Management System (ADAMS) [ML18263A239](#).
- C. This procedure describes the process for which every working group member:
 - 1. Contributes to the development and implementation of a working group charter.
 - 2. Aligns with the vision, purpose, and goals; as stated in the working group charter.
 - 3. Applies initiative and creativity to each task.
 - 4. Commits to the highest standards for quality and effective problem solving.
 - 5. Actively seeks improvements to processes and standards.

III. BACKGROUND

It is the policy of the NRC to provide Agreement State programs the opportunity for early and substantive involvement in the development or formulation of any rule, policy, directive, or guidance document, as well as participation in any special study or other NRC activity, as authorized and directed under Section 274g. of the Atomic Energy Act of 1954, as amended. Agreement State/NRC working groups are chartered and co-chaired by Agreement State and NRC staff members. These working groups jointly

leverage Agreement State and NRC resources and centers of expertise within the National Materials Program.

General Operating Standards

All working group members should be given the opportunity to actively contribute to work goals, tasks, and products or outcomes. Working group members should recommend improvements and understand how their contributions are used in the process and products. Expected duties include:

- Attending working group meetings;
- Coming to meetings prepared to discuss issues;
- Providing input in accordance with the requested deadline;
- Staying focused on the task(s);
- Clearly stating the positions and concerns of the member's organization;
- Providing feedback to member's organization or management to facilitate completion of final products; and
- Working as a team and properly balancing differing views in accordance with NRC's policies on an open collaborative work environment, and safety culture and climate.

IV. ROLES AND RESPONSIBILITIES

A. NMSS/MSST Director

1. Approves the establishment of all Agreement State/NRC working groups and associated steering committees to help ensure appropriate coordination with Agreement States.
2. Establishes expectations for communication strategies for seeking input from stakeholders and providing status updates and results to the steering committee and the OAS Executive Board.
3. Appoints Agreement State/NRC Working Group Coordinator.

B. Lead Organization

1. Recommends and usually assumes responsibility for the establishment of working groups for issues that would directly affect an Agreement State.
2. Establishes a draft charter for the working group that preserves the essential elements of the request for participation, and addresses the purpose, membership, objectives, operating rules, and schedule of the working group.
3. Approves all charters of Agreement State/NRC working groups and steering committees to help ensure efficiency and effectiveness in the groups or committee's purpose, function, and product.
4. Ensures that the resources needed to accomplish the task are provided to the working group, and tracks progress.
5. Can be an NMSS division or an OAS group.

C. OAS Executive Board

1. Recommends the establishment of Agreement State/NRC working groups and steering committees.
2. Consults with NMSS or any other lead organization on Agreement State involvement in working groups.
3. Determines Agreement State representatives on working groups.
4. The OAS chairman approves all charters of NRC working groups and steering committees.

D. Working Group Chair, Co-Chair(s), or Task Leader

Depending on the task of the working group, there may be an Agreement State or NRC chair, co-chair(s), or a task leader.

1. Coordinates establishment of the working group.
2. Leads working group meetings including, but not limited to, establishing meeting schedules and agenda.
3. Finalizes working group charter during first working group meeting.
4. Ensures the preparation of meeting minutes and other support activities, as appropriate.
5. The NRC chair, co-chair, or task leader ensures that appropriate documents are made available in ADAMS, or for those documents containing sensitive pre-decisional information, in an encrypted application (e.g., NRC BOX).
6. Ensures that the working group follows the charter and completes all tasks within the agreed upon time frame.
7. Ensures that the lead organization and the steering committee (if applicable) are kept informed of working group activities.
8. Ensures that issues and areas needing policy guidance or direction are brought to the lead organization or steering committee (if applicable) for discussion and resolution. If the working group has no steering committee and needs guidance, the chair, co-chair(s), or task leader will bring the issue(s) to the attention of office management, the OAS Executive Board, or the Office of the General Counsel (OGC), as applicable.
9. Issues the final working group product(s).

- E. Agreement State/NRC Working Group Coordinator (NMSS/MSST)
 - 1. Ensures the working group members understand the process and objectives.
 - 2. Facilitates the development of the working group charter and posts it on the external website: <https://scp.nrc.gov/workinggroup>.
 - 3. Provides advice to lead organization regarding implementation of this procedure.
 - 4. Maintains a current master list of Agreement State/NRC working groups which is posted on the external NMSS website: <https://scp.nrc.gov/workinggroup.html>.
- F. Agreement State/NRC Working Group Representative/Member
 - 1. Works with the working group chair, co-chair(s), or task leader to assess the tasks and milestones needed to:
 - a. Complete draft working group products;
 - b. Review and comment on drafts;
 - c. Address comments; and
 - d. Prepare any briefing materials.
 - 2. Reviews contractor reports, as appropriate.
 - 3. Completes working group tasks and products according to the requested time frame.
 - 4. Facilitates the concurrence process by assisting in resolving any significant issues or concerns.
 - 5. Supports and participates in management briefings and any public meetings.
 - 6. Informs chair, co-chair(s), or task leader of any conflicting priorities and problems.
 - 7. Ensures that their management's opinions and views are understood and presented to the working group.
 - 8. The Agreement State member(s) of the Agreement State/NRC working groups will:
 - a. Keep the OAS Executive Board apprised of the working group's activities;
 - b. Solicit comments and input on working group issues;

- c. Notify the Working Group Chair and OAS Executive Board of potential issues or concerns; and
- d. Obtains and expresses views from other Agreement States. However, any formal requests for comments from the Agreement States needs to be in writing, and receive clearance from the Office of Management and Budget (OMB).

G. Steering Committee

- 1. For the associated working group, reviews, and agrees to the working group charter.
- 2. Provides guidance and direction to the working group.
- 3. Provides feedback on working group products.
- 4. Keeps applicable office or division senior management informed of issues, schedules, and the working group's activities, as necessary.
- 5. The Agreement State member(s) of the steering committee will:
 - a. Obtain and express the views of other Agreement State members;
 - b. Keep the OAS Executive Board apprised of the working group's activities; and
 - c. Notify the OAS Executive Board of potential issues or concerns.

V. GUIDANCE

A. General

- 1. These working groups are used to make recommendations to develop or draft revisions of policies, procedures, and guidance documents, as well as to perform special studies to support the National Materials Program.
- 2. A checklist to assist in establishing a working group is provided on the State Communications Portal: <https://scp.nrc.gov/procedures.html>.
- 3. The lead organization should contact the Agreement State/NRC working group coordinator or the Chief, State Agreement and Liaison Programs Branch, NMSS, to discuss any questions on establishing or implementing a working group.

B. Lead Organization

The lead organization recommending establishment of an Agreement State/NRC working group will usually assume lead responsibility for the working group. This lead responsibility includes establishing the purpose of the working group,

requesting participation, drafting and finalizing a charter in coordination with OAS, identifying members, and tracking progress.

C. Request for Members

1. The lead organization should submit a request for working group members to NMSS/MSST.
2. The lead organization will contact NMSS/MSST to discuss Agreement State involvement. The lead organization should provide the purpose, scope of activities, expected product or outcome of the working group, and the estimated level of effort expected of members to NMSS/MSST for its use in seeking Agreement State representation. A sample request for members can be found on the State Communications Portal:
<https://scp.nrc.gov/procedures.html>. Each area is discussed further below.
3. The request for an Agreement State representative should include the following information:

a. Purpose

Describe the specific purpose for creating the working group including any supporting background information. Any restrictions or limitations to be placed on the working group should also be detailed.

b. Suggested Membership

Describe the suggested membership of the working group, including the number of members desired from each organization and the desired expertise and skills of potential members. Note that there may be more than one Agreement State representative depending on the complexity of the issues involved.

c. Level of Effort Expected of Working Group Members

To the extent possible, the working group co-chair or task leader should develop a project plan with the following information:

- The level of commitment expected of working group members;
- The anticipated schedule of working group meetings;
- The anticipated workload;
- The anticipated number of trips, if any; and
- The schedule for completion of tasks, products and/or deliverables.

d. Scope of Activities and Expected Product

Describe the scope of the activities, the proposed schedule with completion date, and the expected product of the working group.

e. Steering Committee

Identify whether a steering committee will be established to support the working group and if an Agreement State representative is needed for the steering committee.

- D. After submitting a request for members, the lead organization should place any new working group(s) on the agenda for discussion during the next monthly NRC/OAS/Conference of Radiation Control Program Directors teleconference to ensure a common understanding of the purpose, scope, and proposed membership of the new working group.

1. Identification of Working Group Members

- a. Each organization should identify working group members to the lead organization within 30 days of the formal request. The lead organization may suggest specific members for participation in the working group; however, working group membership is ultimately the decision of respective program management. A minimum of 30 days should be given to the OAS Executive Board to identify State members.
- b. The NRC will select the NRC working group co-chair, and the OAS Executive Board will select the OAS co-chair. Responsibilities of the chairs are listed in Section IV.D of this procedure.
- c. In some cases, additional members from outside the Federal or State government may be requested to be part of a working group. However, if all working group members are not Federal or State government employees acting in their official capacity, the group may be an advisory committee subject to the procedural requirements of the Federal Advisory Committee Act (FACA). OAS participation on an NRC working group does not have FACA implications. If all working group members are not permanent Government employees, the Office of the Assistant General Counsel for Legal Counsel, Legislation, and Special Projects of OGC should be consulted before any meeting of the working group takes place to inquire about the applicability of FACA and what actions need to be taken to meet FACA requirements.

2. The Working Group Charter

a. Drafting and Approval

Before the working group convenes, the lead organization should draft a charter for the working group and provide working group members and steering committee members an opportunity to review and comment on the draft charter. The charter should preserve the essential elements of the request for membership. All Agreement State/NRC working groups must have a charter. The charter should be finalized within 30 days of the first working group meeting. The lead organization and the OAS chair approve the final charter.

b. Charter Contents

The charter should contain the information below. Recent working group charters can be found on the State Communication Portal:

<https://scp.nrc.gov/workinggroup.html>.

c. Purpose

Describe the specific purpose for creating the working group, including any supporting background information. Any restrictions or limitations to be placed on the working group should also be detailed.

d. Membership

List each working group member, including the organization each member represents. Steering committee membership and representation should also be included if a steering committee has been assigned to the working group.

e. Objectives

Clearly outline the tasks, products, outcomes, and deliverables to be completed by the working group.

f. Schedule

Describe the time frame in which the working group is expected to complete its objectives and issue its final products. Information on expected progress reports, draft products, and meetings with steering committees should be documented, as well.

g. Operating Rules of the Working Group

All charters should clearly identify if the working group operates as an Agreement State/NRC working group as described in Section IV of this procedure.

h. Changes to the Working Group Charter

Any significant changes to the charter will go through the approval process and the original charter will be followed unless a revision is agreed upon by all concurring organizations. The need to change an OAS working group member identified in the Charter can be approved by the lead organization and OAS as an addendum via email or other written correspondence. This should be coordinated through the SLBP Branch Chief.

i. Management Advisor

If an Agreement State/NRC working group would benefit from routine management interaction and feedback, the working group, the lead organization, or the steering committee may request the identification and

involvement of a management advisor. A management advisor can provide perspective on issues and working group tasks and can serve as a sounding board for a working group. The advisor should attend working group meetings and provide assistance on working group products, as necessary. The lead organization will work in conjunction with NMSS/MSST and the OAS Executive Board to choose a suitable representative. A management advisor may be from either the NRC or an Agreement State.

3. Steering Committees for Working Groups

- a. For working groups, in some cases, the lead organization may establish a steering committee to aid a working group in accomplishing its objectives (for example, if a working group is addressing a particularly complex policy issue). A steering committee should assist a working group in achieving its goals by providing feedback, insight, and advice on the technical, regulatory, and policy issues being addressed by the working group.
- b. If a Steering Committee is established, the selection of the Agreement State member(s) for the Steering Committee and the preparation of a charter should follow the guidance in Section V.
- c. If a steering committee is not established, the lead organization, NRC managers, and OAS Executive Board members who concurred on the working group charter or their designees will be responsible for providing guidance and support on Agreement State/NRC working group activities.

4. Implementation and Administration

a. Announcing and Holding Meetings

The NRC working group co-chair or task leader should announce each meeting as appropriate, including teleconferences in accordance with agency policy.

b. Pre-decisional Information

All rulemaking information should be considered pre-decisional unless otherwise specified. Some working groups may be provided with pre-decisional information that is exempt from public disclosure. Any working group meetings involving discussion or consideration of pre-decisional information (information that NRC would not normally discuss in public meetings) would not be open to the public, nor would draft products containing pre-decisional information be made available to the public through the NRC's ADAMS or another distribution mechanism. The lead organization, along with the working group co-chairs or task leader, should decide when meetings and products will be made available to the public.

If OAS is the lead organization, NMSS/MSST may be asked to aid the working groups in making these decisions. For further guidance, see MD 3.5, *Attendance at NRC Staff-Sponsored Meetings*, and Federal Register Notice 67 FR 36920 “Enhancing Public Participation in the NRC Meetings; Policy Statement.”

c. Meeting Minutes

As appropriate, minutes of the meetings should be developed, and consideration should be given to profiling the minutes as publicly available in ADAMS.

Meeting minutes and background documents that contain pre-decisional or sensitive information should be profiled as non-public documents in ADAMS. These documents can be distributed to Agreement State working group members and those with a “need to know” via secured marked email or other secure application, e.g., NRC BOX.

The title of the documents should be unique to the specific meeting and should include the name of the Agreement State/NRC working group and the subject of the meeting. Emails, telephone calls, and memoranda relating to setting up meetings or arranging working group business or similar administrative activities are not required to be placed in ADAMS. Refer to ADAMS Template No. NRC-001, “Meeting-Related Documents for NRC Staff-Level Offices.”

d. Changes in Membership

If a working group member must be replaced either temporarily or permanently, the member’s management and the lead organization should agree upon an appropriate replacement. If additional members are required for a working group, the lead organization should coordinate with the office or organization where the additional member is desired. If an Agreement State member needs to be changed or added, Section V.D.1. should be followed.

e. Final Working Group Products

The working group’s final tasks, product(s) and/or deliverables should be concurred upon by all members of the working group.

Final working group products will be placed in ADAMS, as appropriate, and distributed to the OAS chair, the Director of MSST, and the directors of the appropriate NRC offices. Completed working group products should be properly managed, profiled and archived in ADAMS.

f. Coordination With NRC Offices

Before issuance of the final products, the lead organization should coordinate with OGC to ensure that there is no conflict with current policies, statutes, or procedures. When the lead organization is OAS,

NMSS/MSST should coordinate with OGC to ensure that there is no conflict with current policies, statutes, or procedures.

g. Sunset Review and Sunsetting

Each year during the OAS Executive Board meeting, the OAS Executive Board, in conjunction with NMSS/MSST, reviews the need for continuing each existing Agreement State/NRC working group. NMSS/MSST and the OAS Executive Board also review the scope, progress, and membership of the working groups and suggest adjustments, as necessary.

A working group should be dissolved upon the issuance of the final working group tasks, products, or deliverable. Normally, additional work, if necessary, would be handled by OAS, NRC, individual Agreement State programs, or through the formation of another working group. When additional work is expected from the working group after the final product has been issued, the lead organization should discuss this need with NRC management and the OAS Executive Board, and the working group charter should be reviewed and revised, as appropriate.

h. Travel Considerations for Working Group Members

Travel and per diem expenses for NRC-invited Agreement State working group members may be paid by the NRC. In this event, travel and per diem expenses for an Agreement State member will be coordinated through NMSS/MSST.

i. Timekeeping

NRC staff must charge their time spent on working group activities to the appropriate billing code.

If a State working group member needs documentation of the amount of time spent on working group tasks, the member should discuss his or her needs with the working group chair(s), as well as with the Agreement State/NRC working group coordinator.

5. Differing Professional Opinion

If there is any professional judgment that differs from the prevailing staff view on a specific area in a working group task, product or deliverable, a written differing opinion can be submitted with the working group product in accordance with MD 10.159, "The NRC Differing Professional Opinions Program."

VI. REFERENCES

<https://scp.nrc.gov/procedures.html>

Management Directives are available at: <https://scp.nrc.gov/procedures.html>

VII. ADAMS REFERENCE DOCUMENTS

For knowledge management purposes, all previous revisions of this procedure, as well as associated correspondence with stakeholders, that have been entered into ADAMS are listed below.

No.	Date	Document Title/Description	Accession Number
1	11/8/16	SA-801, Agreement State Participation in NRC Working Groups	ML16312A392
2	10/13/22	SA-801, Agreement State Participation in NRC Working Groups Rev. 1	ML22245A083